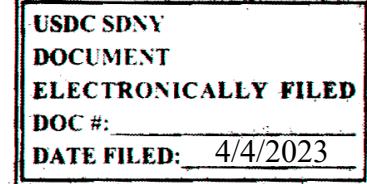


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X



In re:

TERRORIST ATTACKS ON
SEPTEMBER 11, 2001

03-MD-01570 (GBD)(SN)

ORDER

X

SARAH NETBURN, United States Magistrate Judge:

This document relates to:

Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-06977Bauer, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-07236Ashton, et al. v. Kingdom of Saudi Arabia, No. 17-cv-02003Ryan, et al. v. Islamic Republic of Iran, et al., No. 20-cv-00266

Before the Court is a motion to sever the claims of certain plaintiffs¹—Katherine Maher, Daniel R. Maher, Joseph Maher, and the Estate of Daniel L. Maher (collectively, the “Maher Plaintiffs”—from the consolidated cases in Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-06977 (“Ashton v. Al Qaeda”), Bauer, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-07236 (“Bauer”), and Ashton, et al. v. Kingdom of Saudi Arabia, No. 17-cv-02003 (“Ashton v. KSA”), (collectively, “Ashton/Bauer”). ECF No. 8644.² The Maher Plaintiffs seek to prosecute their claims in new and existing cases. See ECF No. 8786. To that end, they request that the Court open three new cases and transfer certain docket entries from the Ashton/Bauer dockets to new and existing case dockets. See id.; ECF Nos. 8794, 8886.

¹ This motion was originally joined by other plaintiffs who have since changed counsel and retracted their request to sever and transfer their claims. See ECF Nos. 8836, 8845, 8898. The Court will issue a separate order addressing those plaintiffs.

² Unless otherwise noted, all ECF numbers refer to the main MDL docket, No. 03-md-01570.

The impetus for severing these claims was the Maher Plaintiffs' 2019 change in representation from Baumeister & Samuels, P.C. to Wiggins Childs Pantazis Fisher Goldfarb LLC. See ECF Nos. 5165. The fallout from that decision—including disputes over charging liens and the status of various claims—led to several rounds of briefing and consumed three Court hearings. See ECF Nos. 8703 (summarizing the procedural history through November 2022), 8913 (scheduling third conference).

After discussion with current and former counsel, the Court determined that the most appropriate course of action was to first sever the Maher Plaintiffs' claims from Ashton/Bauer *nunc pro tunc* to the date of the original purported severance and then transfer those claims into new cases. This will formalize the removal of the Maher Plaintiffs from the Ashton/Bauer action while preserving the status of their claims. It will not impact the status of the Maher Plaintiffs' claims in Ryan, et al. v. Islamic Republic of Iran, et al., No. 20-cv-00266 ("Ryan"), or Grazioso, et al. v. Islamic Emirate of Afghanistan, et al., No. 22-cv-01188 ("Grazioso"), except to explicitly incorporate certain docket entries from the Ashton/Bauer cases into Ryan, as ordered below.

Counsel provided the Court a list of plaintiffs and defendants to be added to each new case and a list of Ashton/Bauer docket entries that apply to the Maher Plaintiffs' claims. See ECF No. 8886. Although the Court cannot transfer all of these docket entries into the Maher Plaintiffs' new cases, it incorporates them by reference. The Court will transfer complaints and amended complaints to the new cases, because without those docket entries, ECF will not permit a defendant to file an answer. The Court will also transfer docket events denoting entries of default to avoid confusion about the status of defaulting defendants.

Among the docket entries that will be incorporated by reference are pending motions whose outcomes will bind the Maher Plaintiffs. To the extent possible, the Court will explicitly note the case names and docket numbers of the Maher Plaintiffs' new cases in its decisions on these pending motions so it is clear that the decisions apply to the new cases. That said, the Court's decisions will apply to the Maher Plaintiffs' claims even if they do not reference the new case names and docket numbers.

CONCLUSION

The Court ORDERS that all claims by the Maher Plaintiffs against all defendants are severed from Ashton/Bauer nunc pro tunc to January 9, 2020.

The Maher Plaintiffs' claims in Ryan and Grazioso will continue to be prosecuted in those cases and this order does not impact the status of those claims. The docket entries listed in Appendix A—as well as any other service events, defaults, discovery, filings, proceedings, and orders previously applicable to the Maher Plaintiffs claims in Ryan—are deemed incorporated into Ryan and are applicable to and binding upon the Maher Plaintiffs in Ryan.

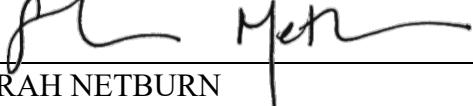
The Court respectfully directs the Clerk of the Court to open three new cases to be styled Maher, et al. v. Kingdom of Saudi Arabia, et al., Maher, et al. v. Islamic Emirate of Afghanistan a/k/a The Taliban, et al., and Maher, et al. v. Republic of the Sudan. These three new cases shall be accepted into this multidistrict litigation case, In re Terrorist Attacks on September 11, 2001, No. 03-md-01570, assigned to Judge George B. Daniels, and referred to Judge Sarah Netburn in accordance with ECF No. 3418. Once these cases have been opened, the Clerk's Office will contact counsel to arrange payment of the filing fees.

The Maher Plaintiffs' severed claims (other than those prosecuted in Ryan and Grazioso) are transferred into these three new cases as prescribed in Appendices B, C, and D. This order shall be filed in each new case. The Clerk of the Court is respectfully directed to docket in each

case the complaints, amended complaints, and entries of default included in the list of docket entries in Appendices B, C, and D. All docket entries listed in Appendices B, C, and D—as well as any other complaints, service events, defaults, discovery, filings, proceedings, and orders previously applicable to the Maher Plaintiffs’ claims against the relevant defendants—are deemed incorporated into the new cases and are applicable to and binding upon the Maher Plaintiffs in each of the new cases.

The Clerk of the Court is respectfully directed to terminate the motions at ECF Nos. 8644, 8794, and 8885 and the related motions in Ashton v. Al Qaeda, No. 02-cv-06977, ECF Nos. 1786, 1880, and 1918; Bauer, No. 02-cv-07236, ECF Nos. 192, 218, and 227; Ashton v. KSA, No. 17-cv-02003, ECF No. 259; and Ryan, No. 20-cv-00266, ECF Nos. 114, 121, and 126.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: April 4, 2023
New York, New York

APPENDIX A

Case: Ryan, et al. v. Islamic Republic of Iran, et al., No. 20-cv-00266

Docket entries deemed incorporated:

Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-07236, ECF Nos. 11, 32, 38, 111, 358, 465, 758, 759

Bauer, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-06977, ECF Nos. 14, 15, 16, 17, 18, 19, 20, 36

APPENDIX B

New case: Maher, et al. v. Kingdom of Saudi Arabia, et al.

Plaintiffs:

Estate of Daniel L. Maher (personal representative: Katherine Maher)

Katherine Maher

Daniel R. Maher

Joseph F. Maher

Defendants:

Kingdom of Saudi Arabia

Docket entries deemed incorporated:

Ashton, et al. v. Kingdom of Saudi Arabia, No. 17-cv-02003, ECF Nos. 1, 20

APPENDIX C

New case: Maher, et al. v. Islamic Emirate of Afghanistan a/k/a The Taliban, et al.

Plaintiffs:

Estate of Daniel L. Maher (personal representative: Katherine Maher)

Katherine Maher

Daniel R. Maher*

Joseph F. Maher*

*Note: These plaintiffs assert claims against all defendants listed below *except* the Taliban, Al Qaeda, and the Estate of Osama bin Laden, each of which is marked with an asterisk.

Defendants³:

World Assembly of Muslim Youth

International Islamic Relief Organization

Muslim World League

Abdullah Bin Saleh Al Obaid

Abdullah Muhsen Al Turki

Adnan Basha

Yassin Kadi

Abdullah Omar Naseef

Aqeel Al Aqeel

Dallah Avco Trans Arabia Co. Ltd.

Soliman H.S. Al-Buthe

³ Defendants' names are spelled in various ways in the complaints and on the docket. To aid the Clerk of the Court in effectuating these orders, the Court has attempted to use the spellings that appear on ECF and/or the operative complaint. It has included a/k/a designations recognized by ECF. Where ECF lists a/k/a names as separate defendants, the Court does so here. Where the a/k/a names do not appear on ECF, the Court omits them.

Sulaiman Al-Ali⁴

Islamic Emirate of Afghanistan a/k/a The Taliban*

Al Qaeda Islamic Army a/k/a Al Qaeda*

Estate of Osama Bin Laden*

Egyptian Islamic Jihad

Muslim Brotherhood

Mohamad Bayazid

Gulbuddin Hekmatyar

Wa’el Jelaidan

Benevolence International Foundation, Inc.

Taibah International Aid Association

Global Relief Foundation, Inc.

Muwaffaq Foundation

Akida Bank Private Limited

Al Taqwa Bank

Hassan Bahfzallah

Adel Batterjee a/k/a Sheikh Adil Galil Batargy

Mansour Al-Kadi

Nada Management Organization SA

Al Taqwa Management Organization

Nasco Nasreddin Holdings SA

⁴ Sulaiman Al-Ali is listed as “terminated” as a defendant as of July 14, 2011 on the main MDL docket, but the Court’s decision dismissing claims against Al-Ali was reversed. See In re Terrorist Attacks on Sept. 11, 2001, 714 F.3d 659 (2d Cir. 2013). The Clerk of the Court is respectfully requested to remedy this designation.

Ali Ghaleb Himmat

Piedmont Poultry

Yousef M. Nada

Youssef M. Nada Establishment⁵

Mufti Mohammed Rashid

Abdulrahman Alamoudi

Armand Albert Freidrich Huber a/k/a Ahmed Huber

Global Diamond Resources

Gum Arabic Co. Ltd.

Mamoun Darkazanli

Mamoun Darkazanli Import-Export Company

Miga – Malaysian Swiss, Gulf and African Chamber

Mohammed Bahareth

Mustafa Ahmed Al-Hawsawi

New Diamond Holdings

Said Bahaji

Sana-Bell Inc.

Sanabel Al Kheer, Inc.

Sanabil Al-Khair

Sherif Sedky

Estate of Ayman Al Zawahiri

Abd Al Rahim Al Nashiri

⁵ This defendant is not easily identifiable on the main MDL docket, but is listed this way on the complaint.

Bilal Bin Marwan

Abu Zubaydah

Khalid Sheikh Mohammed

Muhammed Galeb Kalaje Zouaydi

Mounir El-Motassadeq

Ramzi Mohammed Abdullah Binalshibh

Estate of Abdulaziz Al Omari

Estate of Ahmed Al Ghamdi

Estate of Ahmed Al Nami

Estate of Ahmed Ibrahim A. Al Haznawi

Estate of Fayez Ahmed

Estate of Hamza Al Ghamdi

Estate of Hani Hanjour

Estate of Khalid Al Midhar

Estate of Majed Moqed

Estate of Marwan Al-Shehhi

Estate of Mohald Al Shehri

Estate of Mohammed Atta

Estate of Nawaf Al Hazmi

Estate of Saeed Al Ghamdi

Estate of Salem Al Hazmi

Estate of Satam Al-Suqami

Estate of Waleed Al-Shehri

Estate of Ziad Samir Jarrah

Zacarias Moussaoui

Docket entries deemed incorporated:

Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-06977, ECF Nos. 5, 11, 12, 32, 38, 111, 194, 247, 253, 465, 524, 528

Bauer, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-07236, ECF Nos. 1, 8, 10, 133, 167, 168, 169

In re Terrorist Attacks of Sept. 11, 2001, No. 03-md-01570, ECF Nos. 1, 447, 3311, 3323, 7870, 8275

APPENDIX D

New case: Maher, et al. v. Republic of the Sudan

Plaintiffs:

Estate of Daniel L. Maher (personal representative: Katherine Maher)

Katherine Maher

Daniel R. Maher

Joseph F. Maher

Defendants:

Republic of the Sudan

Docket entries deemed incorporated:

Ashton, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-06977, ECF Nos. 11, 32, 38, 111, 358, 465, 652, 1322

Bauer, et al. v. Al Qaeda Islamic Army, et al., No. 02-cv-07236, ECF No. 1

In re Terrorist Attacks of Sept. 11, 2001, No. 03-md-01570, ECF Nos. 5824, 5825, 6285, 6286, 6288, 6291, 6328, 6350, 6351, 6374, 6397, 6399, 6493, 6401, 6427, 6428, 6429, 6537, 6462, 6482, 6492, 6493, 6496, 6521, 6537, 6539, 6540, 6547, 6574, 6575, 6649, 6713, 7060, 7136, 7250, 7266, 7942, 8090, 8143, 8169, 8170, 8549, 8570, 8707, 8708, 8717, 8791, 8792, 8793, 8834